

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ADDISON RIVERA,
on behalf of RUDY RIVERA, deceased,

Plaintiffs,

vs.

CIV 10-0863 KBM

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

AGREED ORDER AWARDING ATTORNEY FEES UNDER EAJA

THIS MATTER having come before the Court upon Plaintiff's Motion for Attorney Fees under Equal Access to Justice Act , *see Docs. 32, 33*, and Defendant having no objection to the request for fees in the amount requested, *see Doc. 34*, the Court finds that the motion should be granted.

IT IS THEREFORE ORDERED that attorney fees be, and hereby are, awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), payable to Plaintiff in the amount of \$6,264.00. *See Astrue v. Ratliff*, 130 U.S. 2521 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).



UNITED STATES CHIEF MAGISTRATE JUDGE